

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No. 04-32748 DDO

Chapter 13

Jose Alonzo Martinez-Lemus and
Dora Vargas,

Debtors.

OBJECTION TO CONFIRMATION

TO: Debtors, Jose Alonzo Martinez-Lemus and Dora Vargas :Attorney for Debtors,
Barbara Nilva Nevin; Jasmine Z. Keller, Chapter 13 Trustee; U.S. Trustee; and
other parties in interest.

1. AmeriCredit Financial Services, Inc., ("AmeriCredit") a secured creditor of Debtors, by its undersigned attorney, makes this objection to the confirmation of the proposed plan of the Debtors.

2. This objection is filed pursuant to Fed. R. Bankr. P. 3020(b) and AmeriCredit requests this Court to enter an order denying confirmation of Debtors proposed Chapter 13 plan (the "Plan"). This Court has jurisdiction over this motion pursuant to 28 U.S.C. Sec. 1334(a) and 157(a), 11 U.S.C. §1325 and applicable rules. This is a core proceeding.

3. Hearing on confirmation of the Plan is scheduled for 10:30 a.m. on July 15, 2004, before the Honorable Dennis D. O'Brien, in Courtroom 228a, United States Courthouse, 200 Federal Building, 316 North Robert Street, St. Paul, Minnesota 55101, or as soon thereafter as counsel can be heard.

4. The petition commencing this Chapter 13 case was filed on May 6, 2004 and the case is now pending in this Court.

5. AmeriCredit holds a valid, perfected interest in a 1995 Chevrolet Tahoe, VIN 1GNEK13K5SJ445874, (the "Vehicle"). The value of the Vehicle is \$8,525.00.

6. Copies of AmeriCredit's agreement with Debtors (the "Contract") and evidence of perfection of AmeriCredit's interest in the Vehicle are attached hereto as Exhibits A and B and incorporated herein by reference.

7. The balance due to AmeriCredit as of the petition date totals \$8,154.55 together with interest accruing at the contract rate of 23.25%. The fair market value of the Vehicle is \$8,525.00. Accordingly, the claim of AmeriCredit should be treated as secured to the extent of \$8,525.00.

8. The Plan, however, provides for (i) AmeriCredit's secured claim of \$4,720.00; (ii) total payment on AmeriCredit's secured claim of \$4,720.00; and (iii) monthly payments of \$179.00 commencing in month 1 for 10 months and payments of \$280.00 commencing in month 11 for 11 months.

9. The Plan fails to satisfy AmeriCredit's secured claim plus interest utilizing the payments set forth by Debtors.

10. The Plan does not comply with the provisions of Chapter 13.

11. The Plan does not provide AmeriCredit with adequate protection of its interest in the vehicle.

12. Movant gives notice that it may, if necessary, call Tommie Greer or another representative of AmeriCredit to testify at the hearing.

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION WILL BE USED FOR THAT PURPOSE.

WHEREFORE, AmeriCredit respectfully requests this Court to enter an order denying confirmation of the Debtors' proposed plan and such other further relief as is just and equitable.

Dated: ____ July 7, 2004 ____

RIEZMAN BERGER, P.C.

/e/ Marilyn J. Washburn

Marilyn J. Washburn (#0324140)

7700 Bonhomme, 7th Floor

St. Louis, MO 63105

(314) 727-0101

Attorneys for AmeriCredit

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No.04-32748 DDO

Chapter 13

Jose Alonzo Martinez-Lemus and
Dora Vargas,

Debtors.

***MEMORANDUM IN SUPPORT OF
OBJECTION TO CONFIRMATION***

AmeriCredit submits this memorandum of law in support of its objection to confirmation in the above-entitled matter.

FACTS

AmeriCredit holds a valid, perfected interest in a 1995 Chevrolet Tahoe, VIN 1GNEK13K5SJ445874 (the "Vehicle").

The balance due to AmeriCredit as of the petition date totals \$8,154.55. The interest rate on the Contract is 23.25%. The fair market value of the Vehicle is \$8,525.00. Accordingly, the claim of AmeriCredit should be treated as secured to the extent of \$8,525.00.

The Plan, however, provides for (i) AmeriCredit's secured claim of \$4,720.00; (ii) total payment on AmeriCredit's secured claim of \$4,720.00; and (iii) monthly payments of \$179.00 commencing in month 1 for 10 months and monthly payments of \$280.00 commencing in month 11 for 11 months.

DISCUSSION

Pursuant to 11 U.S.C. §1325(a)(5), a plan must distribute deferred cash payments equal to the present value of the secured claim. *Rake v. Wade*, 113 S.Ct. 2187, 124 L.Ed.2d 424 (1993). In this case, the Debtors have proposed payments that do not satisfy AmeriCredit's secured claim plus interest at the contract rate. Accordingly, the Plan does not meet the confirmation requisites and should be denied.

CONCLUSION

For all of the reasons set forth herein, AmeriCredit respectfully requests that the Court deny confirmation of Debtors Chapter 13 Plan.

Dated: July 7, 2004

RIEZMAN BERGER, P.C.

/e/ Marilyn J. Washburn

Marilyn J. Washburn (#0324140)

7700 Bonhomme, 7th Floor

St. Louis, MO 63105

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Attorneys for AmeriCredit

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No. 04-32748 DDO

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Dora Vargas,

Debtors.

UNSWORN DECLARATION FOR PROOF OF SERVICE

Marilyn J. Washburn, an attorney licensed to practice law in this court, and employed by Riezman Berger, P.C., with an office address of 7700 Bonhomme, 7th Floor, St. Louis, MO 63105, declares that on the date set forth below, I served the annexed **Objection to Confirmation** upon each of the entities named below by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid and depositing same in the post office at St. Louis, Missouri addressed to each of them as follows:

United States Trustee
300 South 4th Street, Suite 1015
Minneapolis, MN 55415

(Attorney for Debtors)
Barbara Nilva Nevin
6500 France Avenue South
Edina, MN 55435

(Debtor)
Jose Alonzo Martinez-Lemus
7717 - 59th Avenue South
Crystal, MN 55428

(Trustee)
Jasmine Z. Keller
12 South 6th Street, Suite 310
Minneapolis, MN 55402

(Debtor)
Dora Vargas
7717- 59th Avenue South
Crystal, MN 55428

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: July 7, 2004

Signed: /e/ Marilyn J. Washburn

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Case No. .04-32748 DDO

Chapter 13

In re:

Jose Alonzo Martinez-Lemus and
Dora Vargas,

Debtors.

ORDER

This matter came before this Court for confirmation of the Chapter 13 plan of reorganization of Debtors. Appearances were noted in the record. Based upon all the files and records, the Court makes this Order pursuant to the Federal Rules of Bankruptcy Procedure.

IT IS HEREBY ORDERED, That confirmation of the Chapter 13 plan of Debtors is denied.

Dated: _____

Dennis D. O'Brien
United States Bankruptcy Judge

RETAIL INSTALLMENT CONTRACT AND SECURITY AGREEMENT No. _____ Date SEPTEMBER 19th, 2001	Seller JIM LUPIENT AUTO MALL 7100 WAYZATA BLVD. GOLDEN VALLEY MN 55426 "We" and "us" mean the Seller above, its successors and assigns.	Buyer JOSE ALONZO-MARTINEZ LEMUS DORA VARGAS 7717 59TH AVE N CRYSTAL MN 55428 "You" and "your" mean each Buyer above, and guarantor, jointly and individually.
	SALE: You agree to purchase from us, over time, the Motor Vehicle (Vehicle) and services described below. Your purchase is subject to the terms and conditions of this contract and security agreement (Contract). The Vehicle is sold in its present condition, together with the usual accessories and attachments.	

Description of Motor Vehicle Purchased Year 1995 Make CHEVROLET Model TRUCK VIN 16NEK13K5SJ445874 Lic. No./Year 816MLD <input type="checkbox"/> New <input checked="" type="checkbox"/> Used	Other: _____
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SECURITY: To secure your payment and performance under the terms of this Contract, you give us a security interest in the Vehicle, all accessions, attachments, accessories, and equipment placed in or on the Vehicle, together called Property, and proceeds of the Property. You also assign to us and give us a security interest in proceeds and premium refunds of any insurance and service contracts purchased with this Contract.

PROMISE TO PAY AND PAYMENT TERMS: You promise to pay us the principal amount of \$ 13595.03, plus finance charges accruing on the unpaid balance at the rate of 23.25 % per year from today's date until paid in full. Finance charges accrue on a 365 day basis. You agree to pay this Contract according to the payment schedule and late charge provisions shown in the TRUTH IN LENDING DISCLOSURES. You also agree to pay any additional amounts according to the terms and conditions of this Contract.

☐ **LOAN ADMINISTRATION FEE:** You agree to pay an additional, nonrefundable loan administration fee of \$25.00 that will be ☐ paid in cash. ☐ paid pro rata over the contract term. ☐ withheld from the proceeds (if this fee is withheld from the proceeds, the amount is included in the principal sum).

DOWN PAYMENT: You also agree to pay, or apply to the Cash Price, on or before today's date, any cash, rebate and net trade-in value described in the ITEMIZATION OF AMOUNT FINANCED. ☐ You agree to make deferred payments as part of the cash down payment as reflected in your Payment Schedule.

TRUTH IN LENDING DISCLOSURES

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	AMOUNT FINANCED The amount of credit provided to you or on your behalf.	TOTAL OF PAYMENTS The amount you will have paid when you have made all scheduled payments.	TOTAL SALE PRICE The total cost of your purchase on credit, including your down payment of
<u>23.25</u> %	\$ <u>5598.01</u>	\$ <u>13595.03</u>	\$ <u>19193.04</u>	\$ <u>1000.00</u> \$ <u>20193.04</u>

Payment Schedule: Your payment schedule will be

Number of Payments	Amount of Payments	When Payments Are Due
<u>36</u>	<u>533.14</u>	<u>MONTHLY, BEGINNING: NOVEMBER 3rd, 2001</u>

Security: You are giving a security interest in the Motor Vehicle purchased.
☐ **Late Charge:** If a payment is more than _____ days late, you will be charged _____. This amount may increase so as to always be the highest amount allowed by law under Minn. Stat. § 47.59.
Prepayment: If you pay off this Contract early, you will not have to pay a penalty.
☐ If you pay off this Contract early, you will not be entitled to a refund of part of the loan administration fee.
Contract Provisions: You can see the terms of this Contract for any additional information about nonpayment, default, any required repayment before the scheduled date, and prepayment refunds and penalties.

ITEMIZATION OF AMOUNT FINANCED

CREDIT INSURANCE: Credit life, credit disability (accident and health), and any other insurance coverage quoted below, are not required to obtain credit and we will not provide them unless you sign and agree to pay the additional premium. If you want such insurance, we will obtain it for you (if you qualify for coverage). We are quoting below ONLY the coverages you have chosen to purchase.

Credit Life: Insured JOSE ALONZO-MARTINEZ LEMUS
☒ Single ☐ Joint Prem. \$ 185.59 Term 36
Credit Disability: Insured
☐ Single ☐ Joint Prem. \$ N/A Term N/A

Vehicle Price (incl. sales tax of \$ 844.94) \$ 14112.94
 Service Contract, Paid to: _____ \$ N/A
 Cash Price \$ N/A
 Manufacturer's Rebate \$ 14112.94
 Cash Down Payment \$ N/A
 Deferred Down Payment \$ 1000.00
 a. Total Cash/Rebate Down/N/A \$ _____
 b. Trade-In Allowance \$ 1000.00
 c. Less: Amount owing \$ N/A
 Paid to: _____
 d. Net Trade-In (b. minus c.) \$ _____
 e. Net Cash/Trade-In (a. plus d.) \$ N/A
Down Payment (e.; disclose as \$0 if negative) 1000.00
Unpaid Balance of Cash Price \$ 1000.00
 Paid to Public Officials - Filing Fees \$ 13112.94
 Insurance Premiums* \$ 18.50
 Amount to Finance line e. (if e. is negative) \$ 185.59
 To: _____ \$ 253.00
 To: JIM LUPIENT AUTO MALL \$ 25.00
 To: _____ \$ N/A
 To: _____ \$ N/A
Total Other Charges/Amounts Pd. to Others \$ 482.09
 Less: Prepaid Finance Charges \$ N/A
Amount Financed \$ 13595.03

Your signature below means you want (only) the insurance coverage(s) quoted above. If none are quoted, you have declined any coverages we offered.
 Buyer JOSE ALONZO-MARTINEZ LEMUS d/o/b _____
 Buyer DORA VARGAS d/o/b _____

PROPERTY INSURANCE: You must insure the Property securing this Contract. You may purchase or provide the insurance through any insurance company reasonably acceptable to us. The collision coverage deductible may not exceed \$ N/A. If you get insurance from or through us you will pay \$ N/A for _____ of coverage.

This premium is calculated as follows:
☐ \$ N/A Deductible, Collision Coverage \$ N/A
☐ \$ N/A Deductible, Comprehensive Cov. \$ N/A
☐ Fire-Theft and Combined Additional Coverage \$ N/A
☐ _____ \$ N/A

Liability Insurance coverage for bodily injury and motor vehicle damage caused to others is not included in this Contract unless checked and indicated.
☐ **MOTOR VEHICLE SERVICE CONTRACT:** With your purchase of the Vehicle, you agree to purchase a Motor Vehicle Service Contract to cover _____
 This Service Contract will be in effect for N/A

ASSIGNMENT: This Contract and Security Agreement is assigned to AMERICREDIT FINANCIAL SERVICES, the Assignee, phone (281) 496-9191. This assignment is made ☐ under the terms of a separate agreement. ☐ under the terms of the ASSIGNMENT BY SELLER on page 2. ☐ This assignment is made with recourse.
 Seller: By _____ Date 09/19/2001

*We may retain or receive a portion of this amount.
NOTICE TO BUYER
 (1) Do not sign this agreement before you read it or if it contains any blank spaces. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) IMPORTANT: THIS MAY BE A BINDING CONTRACT AND YOU MAY LOSE ANY DEPOSITS IF YOU DO NOT PERFORM ACCORDING TO ITS TERMS.
BY SIGNING BELOW BUYER AGREES TO THE TERMS ON PAGES 1 AND 2 OF THIS CONTRACT AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS CONTRACT.

Buyer: _____
 Signature JOSE ALONZO-MARTINEZ LEMUS Date 09/19/2001
 Signature DORA VARGAS Date 09/19/2001
 Seller: By _____ Date _____



ADDITIONAL TERMS OF THIS CONTRACT AND SECURITY AGREEMENT

GENERAL TERMS: You have been given the opportunity to purchase the Vehicle and described services for the Cash Price or the Total Sale Price. The Total Sale Price is the total price of the Vehicle and any services if you buy them over time. You agreed to purchase the items over time. The Total Sale Price shown in the TRUTH IN LENDING DISCLOSURES assumes that all payments will be made as scheduled. The actual amount you will pay may be more or less depending on your payment record.

We do not intend to charge or collect, and you do not agree to pay, any finance charge or fee, that is more than the maximum amount permitted for this sale by state or federal law. If you pay a finance charge or fee that is contrary to this provision, you have a right to a refund of the excess charge. If you agree, or if you do not make a timely request for a refund, we will apply the refund amount first to reduce the principal balance, and when the principal has been paid in full, refund it to you.

You understand and agree that some payments to third parties as a part of this Contract may involve money retained by us or paid back to us as commissions or other remuneration.

If any section or provision of this Contract is not enforceable, the other terms will remain part of this Contract.

PREPAYMENT: You may prepay this Contract in full or in part at any time. Any partial prepayment will not excuse any later scheduled payments until you pay in full.

A refund of any prepaid, unearned insurance premiums may be obtained from us or from the insurance company named in your policy or certificate of insurance, but no refund will be paid if the amount of the refund would be less than \$5.00.

OWNERSHIP AND DUTIES TOWARD PROPERTY: By giving us a security interest in the Property, you represent and agree to the following:

- A. Our security interest will not extend to consumer goods unless you acquire rights to them within 10 days after we enter into this Contract, or they are installed in or affixed to the Vehicle.
- B. You will defend our interests in the Property against claims made by anyone else. You will do whatever is necessary to keep our claim to the Property ahead of the claim of anyone else.
- C. The security interest you are giving us in the Property comes ahead of the claim of any other of your general or secured creditors. You agree to sign any additional documents or provide us with any additional information we may require to keep our claim to the Property ahead of the claim of anyone else. You will not do anything to change our interest in the Property.
- D. You will keep the Property in your possession in good condition and repair. You will use the Property for its intended and lawful purposes. Unless otherwise agreed in writing, the Property will be located at your address listed on page 1 of this Contract.
- E. You will not attempt to sell the Property (unless it is properly identified inventory) or otherwise transfer any rights in the Property to anyone else, without our prior written consent.
- F. You will pay all taxes and assessments on the Property as they become due.
- G. You will notify us of any loss or damage to the Property. You will provide us reasonable access to the Property for the purpose of inspection. Our entry and inspection must be accomplished lawfully, and without breaching the peace.

DEFAULT: You will be in default on this Contract if any one of the following occurs (except as prohibited by law):

- A. You fail to perform any obligation that you have undertaken in this Contract.
- B. We, in good faith, believe that you cannot, or will not, pay or perform the obligations you have agreed to in this Contract.

If you default, you agree to pay our costs for collecting amounts owing, including court costs, attorneys' fees, and fees for repossession, repair, storage and sale of the Property securing this Contract. If this Contract is subject to Minn. Stat. § 168.71, the amount of our attorneys' fees you must pay will not exceed 15% of the amount due and payable under this Contract.

If an event of default occurs as to any one of you, we may exercise our remedies against any or all of you.

REMEDIES: If you are in default on this Contract, we have all of the remedies provided by law and this Contract:

- A. We may require you to immediately pay us, less any refund required by law, the remaining unpaid balance of the amount financed, finance charges and all other agreed charges.
- B. We may pay taxes, assessments, or other liens or make repairs to the Property if you have not done so. We are not required to do so. Any amount we pay will be added to the amount you owe us and will be due immediately. This amount will earn finance charges from the date paid at the interest rate described in the PROMISE TO PAY AND PAYMENT TERMS section until paid in full.
- C. We may require you to make the Property available to us at a place we designate that is reasonably convenient to you and us.
- D. We may immediately take possession of the Property by legal process or self-help, but in doing so we may not breach the peace or unlawfully enter onto your premises. We may then sell the Property and apply what we receive as provided by law to our reasonable expenses and then toward what you owe us.
- E. Except when prohibited by law, we may sue you for additional amounts if the proceeds of a sale do not pay all of the amounts you owe us.

By choosing any one or more of these remedies, we do not give up our right to later use another remedy. By deciding not to use any remedy, we do not give up our right to consider the event a default if it happens again.

You agree that if any notice is required to be given to you of an intended sale or transfer of the Property, notice is reasonable if mailed to your last known address, as reflected in our records, at least 10 days before the date of the intended sale or transfer (or such other period of time as is required by law).

You agree that, subject to your right to recover such property, we may take possession of personal property left in or on the Property securing this Contract and taken into possession as provided above.

RETURN CHECK CHARGE: You agree to pay a service charge for each returned check or returned automatic payment request. The amount of the service charge will generally be \$20.00, but if we use a law enforcement agency to collect payment and the service charge is used to reimburse the law enforcement agency, the amount of the service charge will be \$25.00.

INSURANCE: You agree to buy property insurance on the Property protecting against loss and physical damage and subject to a maximum deductible amount indicated in the PROPERTY INSURANCE section, or as we will otherwise require. You will name us as loss payee on any such policy. (Generally, loss payee is the one to be paid the policy benefits in case of loss or damage to the property.) In the event of loss or damage to the Property, we may require additional security or assurances of payment before we allow insurance proceeds to be used to repair or replace the Property. If the insurance proceeds do not cover the amounts you still owe us, you will pay the difference. You may purchase or provide the insurance through any insurance company reasonably acceptable to us. You will keep the insurance in full force and effect until this Contract is paid in full.

If you fail to obtain or maintain this insurance, or name us as a loss payee, we may obtain insurance to protect our interest in the Property. We will notify you if we do so. This insurance may include coverages not required of you. This insurance may be written by a company other than one you would choose. It may be written at a rate higher than a rate you could obtain if you purchased the property insurance required by this Contract. We will add the premium for this insurance to the amount you owe us. Any amount we pay will be due immediately. This amount will earn finance charges from the date paid at the interest rate described in the PROMISE TO PAY AND PAYMENT TERMS section until paid in full.

OBLIGATIONS INDEPENDENT: Each person who signs this Contract agrees to pay this Contract according to its terms. This means the following:

- A. You must pay this Contract even if someone else has also signed it.
- B. We may release any co-buyer or guarantor and you will still be obligated to pay this Contract.
- C. We may release any security and you will still be obligated to pay this Contract.
- D. If we give up any of our rights, it will not affect your duty to pay this Contract.
- E. If we extend new credit or renew this Contract, it will not affect your duty to pay this Contract.

WAIVER: To the extent permitted by law, you agree to give up your rights to require us to do certain things. We are not required to: (1) demand payment of amounts due; (2) give notice that amounts due have not been paid, or have not been paid in the appropriate amount, time or manner; (3) give notice that we intend to make, or are making, this Contract immediately due; or, (4) obtain official certification of nonpayments.

THIRD PARTY AGREEMENT

By signing below you agree to give us a security interest in the Property described in the SALE section. You also agree to the terms of this Contract, including the WAIVER section above, except that you will not be liable for the payments it requires. Your interest in the Property may be used to satisfy the Buyer's obligation. You agree that we may renew, extend, change this Contract, or release any party or property without releasing you from this Contract. We may take these steps without notice or demand upon you.

You acknowledge receipt of a completed copy of this Contract.

Signature _____

Date _____

NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS THEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

IF YOU ARE BUYING A USED VEHICLE, THE INFORMATION YOU SEE ON THE WINDOW FORM FOR THIS VEHICLE IS PART OF THIS CONTRACT. INFORMATION ON THE WINDOW FORM OVERRIDES ANY CONTRARY PROVISIONS IN THE CONTRACT OF SALE.

ASSIGNMENT BY SELLER

Seller sells and assigns this Retail Installment Contract and Security Agreement, (Contract), to the Assignee, its successors and assigns, including all its rights, title and interest in this Contract, and any guarantee executed in connection with this Contract. Seller gives Assignee full power, either in its own name or in Seller's name, to take all legal or other actions which Seller could have taken under this Contract. (SEPARATE AGREEMENT: If this Assignment is made "under the terms of a separate agreement" as indicated on page 1, the terms of this assignment are described in a separate writing(s) and not as provided below.)

Seller warrants:

- A. This Contract represents a sale by Seller to Buyer on a time price basis and not on a cash basis.
- B. The statements contained in this Contract are true and correct.
- C. The down payment was made by the Buyer in the manner stated on page 1 of this Contract and, except for the application of any manufacturer's rebate, no part of the down payment was loaned or paid to the Buyer by Seller or Seller's representatives.
- D. This sale was completed in accordance with all applicable federal and state laws and regulations.
- E. This Contract is valid and enforceable in accordance with its terms.
- F. The names and signatures on this Contract are not forged, fictitious or assumed, and are true and correct.
- G. This Contract is vested in the Seller free of all liens, is not subject to any claims or defenses of the Buyer, and may be sold or assigned by the Seller.
- H. A completely filled-in copy of this Contract was delivered to the Buyer at the time of execution.
- I. The Vehicle has been delivered to the Buyer in good condition and has been accepted by Buyer.
- J. Seller has or will perfect a security interest in the Property in favor of the Assignee.

If any of these warranties is breached or untrue, Seller will, upon Assignee's demand, purchase this Contract from Assignee. The purchase shall be in cash in the amount of the unpaid balance (including finance charges) plus the costs and expenses of Assignee, including attorneys' fees.

Seller will indemnify Assignee for any loss sustained by it because of judicial set-off or as the result of a recovery made against Assignee as a result of a claim or defense Buyer has against Seller.

Seller waives notice of the acceptance of this Assignment, notice of non-payment or non-performance and notice of any other remedies available to Assignee.

Assignee may, without notice to Seller, and without affecting the liability of Seller under this Assignment, compound or release any rights against, and grant extensions of time for payment to be made, to Buyer and any other person obligated under this Contract.

UNLESS OTHERWISE INDICATED ON PAGE 1, THIS ASSIGNMENT IS WITHOUT RECOURSE.

WITH RECOURSE: If this Assignment is made "with recourse" as indicated on page 1, Assignee takes this Assignment with certain rights of recourse against Seller. Seller agrees that if the Buyer defaults on any obligation of payment or performance under this Contract, Seller will, upon demand, repurchase this Contract for the amount of the unpaid balance, including finance charges, due at that time.

ASSIGNMENT

This ASSIGNMENT is attached to and expressly made a part of that certain Retail Installment Contract pertaining to the sale and financing of a motor vehicle (the "Contract") more particularly described as follows:

Date of Contract
Sept. 19, 2001

Seller
Jim Lupient Automall

Buyer(s)

Jose Alonzo-Martinez-Lemus
Dora Vargas

FOR VALUE RECEIVED, the Seller identified above ("Seller") hereby sells, assigns and transfers to AmeriCredit Financial Services, Inc., its successors and assigns ("AmeriCredit"), Seller's entire right, title and interest in and to the Contract and authorizes AmeriCredit to do every act and thing necessary to collect and discharge obligations arising out of or incident to the Contract. The Assignment of the Contract shall be WITHOUT RECOURSE to the Seller unless noted below or except in the circumstances set forth herein. Seller acknowledges that, notwithstanding anything to the contrary contained in said Contract, including references in the Contract to assignees other than AmeriCredit, if any, this Assignment shall be effective to transfer Seller's rights in the Contract to AmeriCredit.

Warranties: In order to induce AmeriCredit to accept assignment of the Contract, Seller warrants to AmeriCredit that (1) the Contract is genuine, legally valid and enforceable and arose from the sale of the motor vehicle and other property and services described therein (the "Property"); (2) the Property is as represented to the Buyer(s) described above ("Buyer"); (3) the Buyer has paid the downpayment exactly as stated in the Contract and the downpayment, if paid by check, has cleared a financial institution at time of initial presentment; (4) there is no inaccuracy or misrepresentation in any statements made by or on behalf of Buyer and furnished to AmeriCredit, including those contained in the credit application; (5) all disclosures required by law were properly made to Buyer prior to Buyer signing the Contract; (6) it will file the appropriate title documents within twenty (20) days from the date the Buyer takes possession of the vehicle with the appropriate state/county departments or agencies reflecting AmeriCredit as the first lienholder; (7) no material fact relating to the Property or the Contract was misrepresented to Buyer or omitted from disclosure to Buyer; (8) Seller has the right to assign the Contract to AmeriCredit and a certificate of title to the Property, showing a first lien for the benefit of AmeriCredit, has been or will be applied forthwith if permitted by law; and (9) the acquisition fee or discount, if any, charged by AmeriCredit to Seller in connection with the purchase of the Contract was not separately imposed on the Buyer by the Seller. If there is, as determined solely by AmeriCredit, any breach of any warranty of Seller, without regard to Seller's knowledge or lack of knowledge with respect thereto or AmeriCredit's reliance thereon, Seller hereby agrees unconditionally to repurchase the Contract and/or the Property from AmeriCredit, upon demand, for the full amount then unpaid whether the Contract shall then be, or not be, in default. Seller agrees to indemnify AmeriCredit for any setoff or loss, including attorney's fees and costs, suffered as a result of a claim or defense of Buyer against Seller. Liability of Seller arising out of or incident to this Assignment shall not be affected by waiver, indulgence, compromise, settlement, extension or variation of the terms of the Contract and Seller waives notice of acceptance of this Assignment and notices of non-payment and non-performance of the Contract.

Dealer-Seller

Date

Assignment of the Contract shall be WITHOUT RECOURSE unless noted below. (Dealer-Seller and AmeriCredit must initial.)

AmeriCredit Financial Services

Revision Date: 12/2000

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
DRIVER & VEHICLE SERVICES DIVISION
445 MINNESOTA ST., ST. PAUL, MN 55101
CONFIRMATION OF LIEN PERFECTION - DEBTOR NAME AND ADDRESS
LEMUS JOSE ALONZO MARTINEZ
VARGAS TEODORA
7717 59TH AVE N
CRYSTAL MN 55428

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PAID
Permit No. 171
St. Paul, MN

816MLD

1ST SECURED PARTY

LIEN HOLDER

95	CHEV	4WKTA	K3650N082
Year	Make	Model	Title NR
1GNEK13K5SJ445874		09/19/01	NO
VIN		Security Date	Rebuilt

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AMERICREDIT FINANCIAL
SERVICES
PO BOX 182673
ARLINGTON TX 76096-2673



UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Case No. 04-32748 DDO
Chapter 13

Jose Alonzo Martinez-Lemus and
Dora Vargas,

Debtors.

VERIFICATION

I, Immie Cree, an employee of AmeriCredit Financial Services, Inc.
named in the foregoing Objection to Confirmation, declare under penalty of perjury that the
foregoing is true and correct according to the best of my knowledge, information and belief.

DATED: July 7, 2004.

SIGNED:

Immie Cree